

AMENDMENTS TO THE DRAWINGS

The attached sheet of drawings includes changes to Fig. 14. This sheet, which includes Fig. 14, replaces the original sheet including Fig. 14. In Fig. 14, reference numeral -- 51 -- has been inserted to indicate the "shoes."

Attachment: Replacement Sheet

Annotated Sheet Showing Changes

REMARKS

Reconsideration and withdrawal of the objections and rejections set forth in the Office Action are respectfully requested in view of this amendment and the following reasons. By this amendment, claims 1-12 and 14 have been amended, claims 13 and 15 have been canceled, and new claims 16 and 17 have been added. Accordingly, claims 1-17 are pending in this application. The cancellation of claims 13 and 15 is made without prejudice or disclaimer to the subject matter contained therein.

Claim 1 has been amended to recite the present subject matter more clearly, correct informalities, and delete reference numerals. Claim 2-12 have been amended to correct informalities and/or delete reference numerals. Claim 14 has been amended to incorporate the features of canceled claim 13 and make proper reference to claim 16. Support for these features may be found at least in paragraphs [0001], [0008], [0044], and [0053] of the present application as published and its Fig. 4. Thus, it is respectfully submitted that the above amendments introduce no new matter within the meaning of 35 U.S.C. §132.

For at least these reasons, entry of the present Amendment is therefore respectfully requested. Accordingly, Applicants request reconsideration and timely withdrawal of the pending rejections for the reasons discussed below.

Specification Objection

The specification was objected to because of the following alleged informalities: on page 13, lines 22-23 or the last line of the second full paragraph on page 13, it is not clear what is by

“[apparent omission in source document].”

Applicants note that the “[apparent omission in source document]” is the translator’s comments and has been deleted by this amendment. Thus, Applicants believe that the reason for this objection has been overcome by this amendment. Accordingly, Applicants respectfully request withdrawal of the objection to the specification.

Drawings Objection

The drawings were objected to under 37 C.F.R. §1.83(a) as the drawings allegedly do not show every feature of the invention specified in the claims. Specifically, the Examiner concludes that “the belts, straps with buckles and adjustable clips as recited in claim 15 and the vessel for accommodating a free-flowing material as recited in claim 13 and the shoe as recited in claim 14 must be shown or the feature(s) canceled from the claim(s).”

Claims 13 and 15 have been canceled without prejudice or disclaimer, thereby rendering the drawing objection in conjunction with these claims moot.

Claim 14 has been amended to incorporate the features of canceled claim 13 except for the “vessel for accommodating a free-flowing material,” the feature objected by the Examiner. With regard to the “shoe” recited in claim 14, Applicants respectfully notes that this feature is already shown in Fig. 14 in which the “shoes” are placed on the cover plate (14) and thus there is no need for amending this claim and/or associated drawings. However, for the sake of easier understanding, Fig. 14 and the specification have been amended to include reference numeral -- 51 -- for the shoes and to insert new paragraph [0097] indicating -- 51 Shoes --, respectively.

Applicants believe that the reason for this objection has been overcome by this amendment. Accordingly, Applicants respectfully request withdrawal of the objection to the drawings.

Rejections Under 35 U.S.C. §112

Claims 1-15 stand rejected under 35 U.S.C. §112, second paragraph, as being allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regards as the invention. Specifically, the Examiner points out the followings:

- (1) In claim 1, line 5, it is recited that the supporting plates “can be” stationary fixed in place. The term “can be” fails to positive claim the invention. It appears to be conditional upon unknown circumstances.
- (2) In line 1 of claims 2-7, there is no clear antecedent basis for “the two frame” supporting plates.
- (3) Claims 2-7 also recite that the double ended drive rollers are set in synchronous or asynchronous rotational motion. To what are they synchronized or asynchronized?
- (4) In claim 3, line 11 of page 20, it is not clear what is meant by “[sic; (3)].”
- (5) In claim 3, lines 15-16, it is not clear what is meant by “[sic; (28)].”
- (6) In claim 7, line 6, it is not clear what is meant by “[sic; (14)].”
- (7) Claim 8 recites the device is “characterized in that a further possibility exists for ...” The term “a further possibility exists for ...” fails to positively recite the claimed invention. It appears to be conditional upon unknown circumstances. There is no

clear antecedent basis for “the cover plates.”

- (8) In claim 9, line 2, there is no clear antecedent basis for “the cover plates.”
- (9) In claim 13, line 1, there is no clear antecedent basis for “the cover plates.”
- (10) In claim 15, reciting that the device “may be” provided with support mountings or adjustable clips fails to positively claim applicant’s invention. It is not clear whether or not these items are being claimed.

In response to the reason for rejection (1), the term “can be stationarily fixed in place” recited in claim 1, line 5, has been replaced with new term -- is fixed stationary in place --, thereby eliminating possibility of unclearness.

In response to the reason for rejection (2), the term “two table-like supporting plates” recited in claim 1, line 2, has been replaced with new term -- two frame- or table-like supporting plates --, thereby providing an antecedent basis for the term “two frame- or table-like supporting frames” recited in claims 2-7.

With respect to the reason for rejection (3), Applicants respectfully note that the language “the double-ended drive rollers are set in synchronous or asynchronous rotational motion” recited in claims 2-7 may be understood based on the description, for example, page 11, lines 24-26 and page 11, line 28-page 12, line 3, and Fig. 3:

The respective right and left sides of the drive rollers 2 are each connected by the toothed belt 15, and are thus driven synchronously in the same direction. [...] One alternative, not shown, involves driving the drive rollers 2 in the same direction but asynchronously, or synchronously in opposite directions, or asynchronously in opposite directions, using one or more motors.

In light of the disclosure above, Applicants respectfully submit that in claims 2-7 the rotational motions of the double-ended drive rollers are synchronized or asynchronized *with respect to each other*.

In response to the reasons for rejection (4)-(6), the translator's comments "[sic; (3)]," "[sic; (28)]," and "[sic; (14)]" have been removed from claims 3 and 7.

In response to the reason for rejection (7), the language "a further possibility exists for connecting the cover plates (14) to the supporting plate (33)" recited in claim 8, lines 2-3, has been replaced with -- the cover plates are connected to the supporting plate --, thereby providing positive recitation of the claimed subject matter. Furthermore, claim 8 has been further amended to make reference to new dependent claim 17, which recites "cover plates," thereby providing an antecedent basis for the term "the cover plates" recited therein.

In response to the reason for rejection (8), claim 9 has been amended to make reference to new dependent claim 17, which recites "cover plates," thereby providing an antecedent basis for the term "the cover plates" recited therein.

With respect to the reasons for rejection (9) and (10), claims 13 and 15 have been canceled without prejudice or disclaimer, thereby rendering the rejection thereof moot.

By this amendment, Applicants respectfully submit that all of the reasons for rejection noted above have been overcome. Accordingly, Applicants respectfully request withdrawal of the 35 U.S.C. §112, second paragraph, rejection of claims 1-12 and 14.

Rejections Under 35 U.S.C. §102

Claims 1, 13, and 14 stand rejected under 35 U.S.C. §102(b) as being allegedly anticipated by U.S. Patent No. 2,206,902 issued to Kost (“Kost”).

Applicants respectfully submit that the rejection of independent claim 1 must be withdrawn because the cited reference does not disclose, teach, or suggest all of the features of the claimed subject matter. “Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration.” *W.L. Gore & Assocs. V. Garlock*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984). Further, “when evaluating the scope of a claim, every limitation in the claim must be considered. U.S.P.T.O. personnel may not dissect a claimed invention into discrete elements and then evaluate the elements in isolation. Instead, the claim as a whole must be considered.” *U.S.P.T.O. Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility*, page 9, October 26, 2005. As the Federal Circuit stated, “[a]nticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.” *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)).

In view of this framework, Applicants respectfully submit that Kost fails to disclose every recited feature of claim 1. Specifically, claim 1, as amended, recites, *inter alia*:

wherein the frame- or table-like supporting plates are mounted separately and independent of one another so as to be moveable in three dimensions and the oscillating motion imposed to each plate by the motorized drive is a *randomized*

motion, where the motions of both plates are independent of one another (Emphasis added)

Kost does not disclose, teach, or suggest at least this claim feature. Rather, Kost discloses a foot corrective device in which foot plates 40, 41 are subject to an oscillating motion in a cycle which tilts them forwardly then to one side, then rearwardly and then to the other side (See Kost, page 2, right column, lines 4-9). This oscillating motion of the foot corrective device is implemented by a mechanism including a motorized shaft 69 and a motor 74, as shown in Fig. 2. Here, the oscillating motion can be adjusted by way of angular “adjustment” of the eccentric 51 relative to the worm, as confirmed by the Examiner in the Office Action, page 4, lines 6-4 from the bottom line (See Kost, page 2, right column, lines 61-65). This is however a “controlled” motion, not a *randomized* motion required by the presently claimed subject matter. The mounting disclosed in Kost provides a controlled the motion of both food plates 40, 41, which is not at all randomized or irregular, contrary to the present subject matter. Instead Kost provides for guides which result in a guided, fully controlled motion of foot plates 40, 41.

In contrast to the teachings of Kost, according to the claimed subject matter, the motion of each frame- or table-like supporting plate (8) must be at random. In other words, the supporting plate (8)’s motion is not controlled, as opposed to that taught by Kost. The specification also describes this claim feature as: “When the two-sided supporting plates or the cover plates joined to same are connected to one another by a rigid or resilient element by means of articulated connections, these impactive or oscillatory effects can produce *a sequence of pulsating and divergent, irregular or randomized motions* for these elements that are

independent of one another.” (Present Application, page 4, lines 20-25; emphasis added). Thus, the randomized motion according to the present subject matter is caused by the mounting of the supporting plates (8), which is not guided and allows a movement of the supporting plates (8) in three dimensions without guides. This leads to a stochastic or randomized motion of the supporting plates (8). In view of this, it is clear that Kost fails to disclose, teach, or suggest at least this recited feature. Since Kost does not disclose, teach, or suggest every recited feature, the reference fails to anticipate claim 1.

Accordingly, Applicants respectfully request withdrawal of the 35 U.S.C. §102(b) rejection of claim 1. Claim 13 has been canceled without prejudice or disclaimer, thereby rendering the rejection thereto moot. Claim 14 and new claims 16 and 17 depend from claim 1 and are allowable for at least this reason. Since none of the other prior art of record discloses or suggests all the features of the claimed subject matter, Applicants respectfully submit that independent claim 1, and all the claims that depend therefrom, are allowable.

Rejections Under 35 U.S.C. §103

Claim 15 stands rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Kost.

Applicants respectfully submit that claim 15 has been canceled without prejudice or disclaimer, thereby rendering the rejection thereto moot.

Allowable Subject Matter

Applicants appreciate the indication that claims 2-12 contain allowable subject matter. Claims 2-12 have not been amended because Applicants respectfully submit that claims 2-12 depend from an allowable base claim and are allowable for at least this reason. Accordingly, Applicants submit that claims 2-12 are in condition for allowance.

CONCLUSION

Applicants believe that a full and complete response has been made to the pending Office Action and respectfully submit that all of the stated objections and grounds for rejection have been overcome or rendered moot. Accordingly, Applicants respectfully submit that all pending claims are allowable and that the application is in condition for allowance.

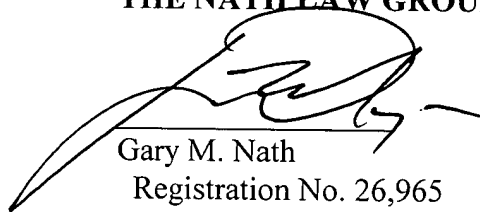
Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicants' undersigned representative at the number below to expedite prosecution.

Prompt and favorable consideration of this Reply is respectfully requested.

November 5, 2008

THE NATH LAW GROUP
112 South West Street
Alexandria, VA 22314-2891
Tel: 703-548-6284
Fax: 703-683-8396

Respectfully submitted,
THE NATH LAW GROUP



Gary M. Nath
Registration No. 26,965
Jerald L. Meyer
Registration No. 41,194
Sung Yeop Chung
Ltd. Rec. No. L0449
Customer No. 20529